

No. 9/5/84-6 Lab./4131.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. Ajay Udyog Modern Industrial Estate, Bahadurgarh (Rohtak).

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 45 of 79

Between

SHRI RANJIT SINGH, WORKMAN AND THE MANAGEMENT OF M/S. AJAY UDYOG,  
MODERN INDUSTRIAL ESTATE, BAHADURGARH (ROHTAK)

Present.—

Shri Dhan Singh, General Secretary of the Iron and Steel Industries, Bahadurgarh.

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Ranjit Singh and the management of M/s. Ajay Udyog, Modern Industrial Estate, Bahadurgarh (Rohtak), to this Court, for adjudication,—*vide* Labour Department Gazette Notification No. RTK/24-79/9993, dated 28th February, 1979 :—

Whether the termination of service of Shri Ranjit Singh, was justified and in order ? If not, to what relief is he entitled ?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared. The claim of the workman is that he was employed with the respondent in a permanent capacity on monthly wages of Rs. 275, but the respondent unlawfully choose to terminate his services with effect from 18th January, 1978 in flagrant disregard of the provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

3. A detailed reply was filed by the respondent, controverting the claim of the petitioner. It is alleged that the workman joined his employment on 14th July, 1975 on an initial salary of Rs. 200 p.m. and continued as such till 18th January, 1978 when he started absenting from his duties and so, the respondent issued a notice to him on 28th January, 1978, requiring the workman to resume his duties but he did not, and so, it is alleged that in the month of February, 1978 the name of the workman was struck off from the roll of workmen. On merits, it is alleged that the workman tendered his resignation,—*vide* letter dated 25th January, 1978, which was not accepted by the management and so, it cannot be alleged that his services were terminated on 12th January, 1978 and as such, the demand notice is pre-mature. Additional plea projected is that after relinquishing his employment with the respondent, the applicant joined some engineering industry at Delhi. So, it is prayed that the reference be answered against the workman.

4. On the pleadings of the parties, the following issues were framed on 13th July, 1979 :—

- (1) Whether the workman absented himself from duty with effect from 18th January, 1978 and abandoned his job ?
- (2) Whether the termination of service of Shri Ranjit Singh was justified and in order ? If not, to what relief is he entitled ?
- (3) Whether the workman has been gainfully employed elsewhere after 18th January, 1979 ?

5. Both the parties were allowed to produce their evidence. The management examined MW-1 Shri Shri Bhagwan and the workman Shri Ranjit Singh appeared as WW-1.

6. After Shri I.D. Dhull, my learned predecessor relinquished his charge in compliance with the orders of the Hon'ble High Court of Punjab and Haryana and after I had assumed the charge, fresh notices were issued to the parties. The workman appeared but the respondent did not, inspite of service through registered A.D. So, *ex parte* proceedings order was passed against the respondent. It is how this case is before me for decision in an *ex parte* manner.

7. In the examination-in-chief the workman made a statement practically corroborating the version given in the demand notice. He is not coming forward to prosecute this reference. Mark 'B' is the letter of authority allegedly given by him to Shri Dhan Singh, but the workman denied his signatures upon the same.



He also denied his signatures upon the demand notice mark "C". Since the workman has denied his signatures upon the demand notice itself, no claim survives for adjudication. Further more he has denied his signatures upon the authority allegedly given in the name of Shri Dhan Singh, so, Shri Dhan Singh has no *locus standi* to appear on behalf of the workman. The reference is answered and returned accordingly. There is no order as to cost.

Dated The 10th May, 1985.

B.P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

Endorsement No. 45/79/776, dated 11th May, 1985

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B.P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

No. 9/5/84-6 Lab./4132.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of Haryana Roadways, Bhiwani.

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 27 of 82.

Between

SHRI MANGAL CHAND, WORKMAN AND THE MANAGEMENT OF HARYANA ROADWAYS,  
BHIWANI.

Shri S.S. Gupta, A.R. for the workman.

Shri Vijay Vir Singh, A.R. for the management.

#### AWARD

1. In exercise of the powers conferred by clause(c) of sub section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Mangal Chand and the management of Haryana Roadways, Bhiwani, to this Court, for adjudication—*vide* Labour Department Gazette Notification No. ID/HSR/130/81/3366, dated 19th January, 1982 :—

Whether the termination of service of Shri Managal Chand was justified and in order ? If not, to what relief is he entitled ?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the workman is that he has been in the employment of the respondent for the last about 7 years and through out his tenure, his work and conduct has been above board, but the respondent choose to terminate his services unlawfully on 16th February, 1982 and in the process gave a complete go-bye to the provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

3. In the reply filed by the respondent, preliminary objections taken are that the management has lost confidence in the workman and that the enquiry file and personal file of the workman have been lost in transit from office of the State Transport Controller, Hayana, Chandigarh and so, there is a prayer, that the management be allowed to produce evidence on merits regarding the charges against the workman, which led to his termination. On merits, it is admitted that the workman had been in the employment of the respondent for the last about 7 years but it is alleged that his work and conduct has been through out blameworthy, because he has been punished or censured on 36 occasions during this tenure and this fact was taken into consideration by the punishing authority while terminating the services of the workman. So, it is alleged that the order of termination was justified and legal.



4. On the pleadings of the parties, the following issue was settled for decision on 4th October, 1982 :—

(1.) Whether the termination of service of Shri Mangal Chand was justified and in order ? It not, to what relief is he entitled ?

5. The management examined in all four witnesses namely MW-1 Shri I.K. Gulyani, Station Supervisor, MW-2 Shri Prem Singh Jhakar, Inspector, MW-3 Shri J.S. Yadav, the then General Manager, Haryana Roadways, Bhiwani, MW-4 Shri Manohar Lal, Assisant Haryana Roadways, Bhiwani. The workman appeared himself in his defence as WW-1.

6. The learned Authorised Representatives of the parties heard.

7. In defence of the order of termination dated 16th February, 1981 passed against the workman, the learned Authorised Representative of the Roadways contended that though the personal file and enquiry file of the workman have been lost, even then there is sufficient evidence on the file to prove that the workman embezzled a sum of Rs. 43.70 on 7th August, 1980, when his bus was checked by Shri Prem Singh MW-2 Inspector of the respondent roadways, because on the relevant date the workman had issued old tickets to 14 passengers and an enquiry into the misconduct of the workman was conducted by Shri I.K. Gulyani, before him, he made a statement in that behalf. Earlier Shri I.K. Gulyani, who appeared as MW-1 stated that the enquiry against the workman was entrusted to him by the General Manager, Roadways, Bhiwani, because on 7th August, 1980 the workman was nabbed when he had issued old tickets to certain passengers when he was conductor of bus number 2073, which was going from Chandigarh to Bhiwani via Jind and that after conducting his enquiry, during which, the workman was given full opportunity of participation, he submitted his findings to the General Manager, Roadways. MW-3 Shri J.S. Yadav, who was General Manager, Roadways, Bhiwani, at the relevant time stated that after taking into consideration the enquiry report and the reply filed by the workman to the final show cause notice and after giving him opportunity of personal hearing, he passed an order of termination Ex. MW-1/1 on 16th February, 1981 and the fact that the workman had been punished on 36 occasions earlier for various irregularities was also taken into consideration by him while passing the order of termination. MW-4 Shri Manohar Lal stated that the case file of the workman was sent by the State Transport Controller, Haryana, Chandigarh, through Suber Hussian, Conductor on 18th June, 1981 but the same was never delivered in the office of the General Manager Roadways Bhiwani, for which mis-conduct Shri Suber Hussain was chargesheeted and is facing an enquiry.

8. The workman when he appeared as WW-1 stated that he was employed with the respondent as a Conductor since the year 1974 and all through his work and conduct has been satisfactory and that his bus was never checked by the Inspectorate Staff on 7th August, 1980, nor does he know about any complaint against him for carrying passengers without tickets, because no chargesheet was issued against him and that prior to the order of termination he was never called by the General Manager, Haryana Roadways, Bhiwani, for any personal hearing.

9. The learned Authorised Representative for the workman Shri S.S. Gupta, contended that in the absence of the enquiry file, it cannot be held that any valid domestic enquiry was ever held against the workman and had such an enquiry ever been held, there was no reason for the workman to suppress this fact from the Court. In my opinion, the learned Authorised Representative of the workman is on fragile footing in so arguing. I am not inclined to give any credence to the statement of the workman *qua* the statement of three responsible officials of the respondent and more so the statement of Shri J.S. Yadav, a very up-right officer of the Haryana Civil Services, Executive Branch cadre, who stated that before passing the order of termination, he had taken into consideration the findings of the enquiry Officer and also his past record. I, also see no reason to disbelieve the statement of Shri Manohar Lal, MW-4 who stated that the enquiry file along with the personal file of the workman was sent to the State Transport Controller, Haryana, Chandigarh, in an appeal filed by the workman against his termination order and that the said file was handed over to Shri Suber Hussain, Conductor, by the State Transport Controller office for handing over the same to the office of the General Manager, Roadways Bhiwani, but the same was never handed over in the said office. The fact that the workman is a brazen liar is proved from his statement in cross-examination that in the appeal filed by him before the State Transport Controller, Haryana, Chandigarh, he had challenged the mode of enquiry. If no enquiry had been held, as asserted by him, in the examination in chief there was no question of his assailing the procedure adopted by the Enquiry Officer in an appeal. At the risk of straying in the realm of conjecture, I am constrained to observe that the workman himself got the enquiry file lost and thereafter took up a plea that no enquiry was held against him before passing the order of termination.

10. Now, the question would be as to whether the allegation against the workman regarding the embezzlement of Rs. 43.70 stand proved from the evidence on record or not. In my opinion, they are proved beyond doubt. The workman has not alleged or proved any animus against MW-2 Shri Prem Singh, Inspector, who conducted a checking of the bus number of 2073 on 7th August, 1980. So, I find that a valid and domestic enquiry was held before passing the order of termination, which is being challenged by the workman.

11. The learned Authorised Representative of the workman contended that this Court has got ample and wide powers under section 11A of the said Act to award lesser punishment than discharge or dismissal in case



where, domestic enquiry is held to be valid and proper. In support of his contention he cited a number of authorities reported in 1979 (II) LIJ 280 Between the management of Binny Limited and Additional Labour Court, Madras and others, 1978 (I) LLN 589 between Uttar Pradesh State Road Transport Corporation, Varansi and State of Uttar Pradesh and others, 1983 LLN page 1, Rama Kant Mishra and State of U. P. and others and 1983 Labour and Industrial Cases 1782 Rajasthan Co-operative Dairy Federation Limited Jaipur V/s. Manohar Lal Sharma and 1971 LLJ (I) 233 between the management of Panitole Tea Estate and the workman. All these cases were handed out on facts different from the facts of the present case. The latest authority on the point has been cited by Shri Vijay Vir Singh, Law Officer of the respondent reported in 1983 Labour & Industrial Cases 1349 Gujrat State Road Transport Corporation V/s. Jamma Dass Bechar Bhai. In this case also the respondent was a Conductor of the State Transport. Their Lordships while discussing the case of the conductor frowned upon the order of reinstatement passed by the Labour Court and made pertinent observations in paragraph 2 of the judgment. A glimpse of the observation can be made from the following extract :—

"We are however constrained to elaborate the rider added by us in proposition No. 9 wherein it has been observed by us that when an employee holding a sensitive post of trust has been dismissed from service the matter may have to be viewed in a different light. By way of illustration we have referred to pilferage by a cashier or a store-keeper from the stores in his charge. Perhaps we should have anticipated a situation like the present and referred to misappropriation by a bus conductor who has collected fare from passengers but has failed to issue tickets to them. If a bus conductor has been dismissed in such circumstances, his reinstatement in the same post would enable him to indulge in the same malpractice in future. Every day he has to collect fare and issue tickets. Reinstatement in the same post would therefore involve grave risk because of the repetitive opportunity that he would get to indulge in the mal-practice and the daily temptation that he would face. Perhaps he would be tempted to repair the past losses."

And further

"There is another tormenting reason for viewing the matter with anxious eyes. The public Sector can never (NEVER) succeed if everyone's property (which it in fact is) is treated as no one's property. The new Culture for the New Man of New India must therefore be National Interest above all other interests including self-interest, sectional interest or class-interest. And therefore the bus conductor, poor as he is, may have to suffer. We suffer more than him in having to say so, particularly because big sharks never get caught. If they get caught they more often than not escape with impunity. But then merely because we cannot prevent the sharks escaping we cannot permit the fly to trifle with Public Property which is the poor man's collective property (if we envisage for them a sun lit day even on some distant morrow in the hidden future). Under the circumstances, the Labour Court was not justified in reinstating a conductor who had collected fare, pocketed the same, and robbed the National Exchequer, in the same post where he could re-indulge in the same weakness at public cost."

12. In the present case also the workman has mis-conducted himself on numerous occasions in the past as is evident from the order of termination, when he was caught red handed the embezzled amount was more than Rs. 43. That was a booty for a single day. In case, he is reinstated he will have repeated opportunities to nibble at the public Exchequer. So, reinstatement in this case would be most unfair and inequitable. However, a small amount of compensation can be awarded to him to enable him to rehabilitate himself in life, because he seems to be un-employed since the date of termination. So, holding that the respondent-management was right in alleging that it has lost confidence in the workman, his reinstatement is declined and instead of that, I award him a compensation of Rs 4000. The reference is answered and returned accordingly. There is no order as to cost.

Dated 29th April, 1985.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

Endst. No. 27/82/763, dated 11th May, 1985.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.